

ESTTA Tracking number: **ESTTA565850**

Filing date: **10/18/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	Provident Precious Metals, LLC
Granted to Date of previous extension	10/23/2013
Address	15850 Dallas Parkway Dallas, TX 75248 UNITED STATES
Attorney information	Jason A. Worgull Wegman, Hessler & Vanderburg 6055 Rockside Woods Boulevard Suite 200 Cleveland, OH 44131 UNITED STATES jaworgull@wegmanlaw.com, whvipgroup@wegmanlaw.com Phone:216-642-3342

### Applicant Information

Application No	85824772	Publication date	06/25/2013
Opposition Filing Date	10/18/2013	Opposition Period Ends	10/23/2013
Applicant	Northwest Territorial Mint, LLC 2505 South 320th Street, Suite 110 Federal Way, WA 98003 UNITED STATES		

### Goods/Services Affected by Opposition

Class 014. All goods and services in the class are opposed, namely: Precious metals, namely, gold and silver bullion
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### Grounds for Opposition

The mark is merely descriptive	Trademark Act section 2(e)(1)
The mark is deceptively misdescriptive	Trademark Act section 2(e)(1)
Related Proceedings	Civil Court Action in the Northern District of Texas; Civil Action No. 3:13-cv-02942-M
Attachments	Notice of Opposition-as-filed.pdf(1400642 bytes )

## Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Jason A Worgull/
Name	Jason A. Worgull
Date	10/18/2013

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Attorney Docket 130105 018T4

In the Matter of Application Serial No. 85/824,772  
For the mark SILVER BULLET BULLION  
Published in the Official Gazette on June 25, 2013

Provident Precious Metals, LLC	)	
	)	
Opposer,	)	Opposition No.:
	)	
v.	)	
	)	
	)	
Northwest Territorial Mint, LLC	)	
	)	
Applicant.	)	
_____	)	

Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

**NOTICE OF OPPOSITION**

Provident Precious Metals, LLC, a Limited Liability Company of Texas, having a principal place of business at 15850 Dallas Parkway, Dallas, Texas 75248 (“Opposer”), believing that it will be damaged by registration, hereby opposes Application Serial No. 85/824,772, filed January 16, 2013, for the mark, SILVER BULLET BULLION, in the name of Northwest Territorial Mint, LLC, a Limited Liability Company of Washington, having a principal place of business at 2505 South 320th Street, Suite 110, Federal Way, Washington 98003 (“Applicant”), published for opposition in the *Official Gazette* on June 25, 2013.

The grounds for opposition are as follows:

1. On January 16, 2013, Applicant filed Application Serial No. 85/824,772 under Section 1(b) to register the term SILVER BULLET BULLION in connection with “precious metals, namely, gold and silver bullion” in Class 14. (See Applicant’s application published for opposition in the *Official Gazette* on June 25, 2013.)

2. Some time after filing its Application, Applicant began making use of the term SILVER BULLET BULLION in connection with silver bullion in the shape of a bullet or other replica ammunition. (See [www.silverbulletbullion.com](http://www.silverbulletbullion.com) and corresponding web pages attached hereto as Exhibits A, B and C).

3. The term SILVER BULLET BULLION is generic and/or merely descriptive for silver bullion and silver bullion in the shape of a bullet or other ammunition, including when used in connection with Applicant’s goods listed in Application Serial No. 85/824,772

4. Applicant’s use of the term SILVER BULLET BULLION as a trademark is consistent with the generally accepted, generic and/or merely descriptive use of SILVER BULLET BULLION for silver bullion in the shape of a bullet or other ammunition. (See advertisement for silver ammunition attached hereto as Exhibit D.)

5. SILVER BULLET BULLION is a generic and/or merely descriptive term for silver bullion and silver bullion in the shape of a bullet or other ammunition.

6. The term SILVER BULLET BULLION is misdescriptive of the character, quality and/or composition of gold bullion, as identified in Application Serial No. 85/824,772.

7. The term SILVER BULLET BULLION is deceptively misdescriptive for at least some of the goods identified in Application Serial No. 85/824,772, e.g., for gold bullion in general, and for gold bullion in the shape of a bullet or other ammunition.

8. Opposer believes that the term SILVER BULLET BULLION is a common, descriptive term for silver bullion and silver bullion in the shape of a bullet or other ammunition.

9. Because the opposed mark is merely descriptive, it is incapable of functioning as a trademark, and therefore, should be denied registration under Section 2(e)(1) of the Trademark Act (15 U.S.C. §1052(e)(1)).

10. Moreover, the opposed mark is the name of a product category or genus, rather than a brand name.

11. Because the opposed mark is incapable of distinguishing Applicant's goods, it is generic, and therefore, should be denied registration.

12. Because the opposed mark is deceptively misdescriptive with respect to gold bullion, it should be denied registration under Section 2(e)(1) of the Trademark Act (15 U.S.C. §1052(e)(1)).

13. Opposer sells novelty and commemorative items, such as coins, medals, statuettes, and similar ornamental and affinity products, including, but not limited to, full-scale replicas of common shapes of weapon ammunition (such as .45 caliber ACP ammunition), made from metals with intrinsic value, such as copper.

14. Applicant holds itself out as a manufacturer and seller of products similar to those sold by Opposer, including, but not limited to, full-scale replicas of common shapes of weapons ammunition made from metals with intrinsic value, such as silver.

15. If Applicant obtains a registration for SILVER BULLET BULLION, Opposer and others who wish to use the terms "Silver," "Bullet" and "Bullion" in combination to simply describe their collectible precious or semi-precious metal bullion in the shape of a bullet or other ammunition will be unable to do so without facing threat of legal action by Applicant.

16. Applicant has, in fact, threatened Opposer with and is taking legal action based on Applicant's alleged trademark rights in the generic and/or merely descriptive term SILVER BULLET BULLION.

17. Therefore, Opposer would be damaged by Applicant's registration of the term SILVER BULLET BULLION as a trademark.

18. On information and belief, the *bona fides* of Applicant's intent to use are not apparent from materials of record in the subject application, and Opposer therefore challenges same and leaves the Applicant to its proofs with regard to the nature and sufficiency of its intent to use at the time of filing Application Serial No. 85/824,772.

19. Pursuant to Trademark Rules of Practice 2.102, Opposer filed a First 90 Day Request for Extension of Time to Oppose for Good Cause, extending the deadline for filing this Notice of Opposition until October 23, 2013. (A copy of this Request for Extension is attached as Exhibit E.)

20. Opposer believes that the term SILVER BULLET BULLION is inherently descriptive and without secondary meaning with respect to silver bullion and silver bullion in the shape of bullets or other ammunition. In addition, Opposer believes that the term SILVER BULLET BULLION is deceptively misdescriptive with respect to gold bullion. As such, the grant of a registration to Applicant for the term SILVER BULLET BULLION should be denied, and Application Serial No. 85/824,772 should not proceed to registration.

WHEREFORE, Opposer requests that Application Serial No. 85/824,772 be denied, and that the mark that is the subject of that application be refused registration. Accordingly, Opposer respectfully requests that this Opposition be sustained in favor of Opposer.

The filing fee for this Opposition in the amount of \$300.00 is included. Please charge any additional fees, or credit any overpayment, to our Deposit Account No. 502431.

Respectfully submitted,

Date: October 18, 2013

By: /Jason A. Worgull/  
Peter A. Hessler  
Angela M. Lavin  
Jason A. Worgull  
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Fax: (216) 642-8826  
Attorneys for Opposer

## CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Notice of Opposition has been served on Michael G. Atkins, Esq., attorney of record for Applicant, at Atkins Intellectual Property, PLLC, 93 S Jackson St #18483, Seattle, Washington 98104-2818, by placing the same in the First Class United States mail, postage prepaid this 18<sup>th</sup> day of October, 2013.

By: /Jason A. Worgull/  
Jason A. Worgull  
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Attorney for Opposer



# EXHIBIT A

Silver Bullet Bullion™ Northwest Territorial Mint

800-344-6468  
info@SilverBulletBullion.com

5/16 TROY OUNCE 9MM ONE TROY OUNCE .45 ACP TWO TROY OUNCE 7.62 NATO (.308) SEVEN TROY OUNCE 12 GAUGE TEN TROY OUNCE .50 BMG 75 TROY OUNCE 20 MM

MADE IN AMERICA

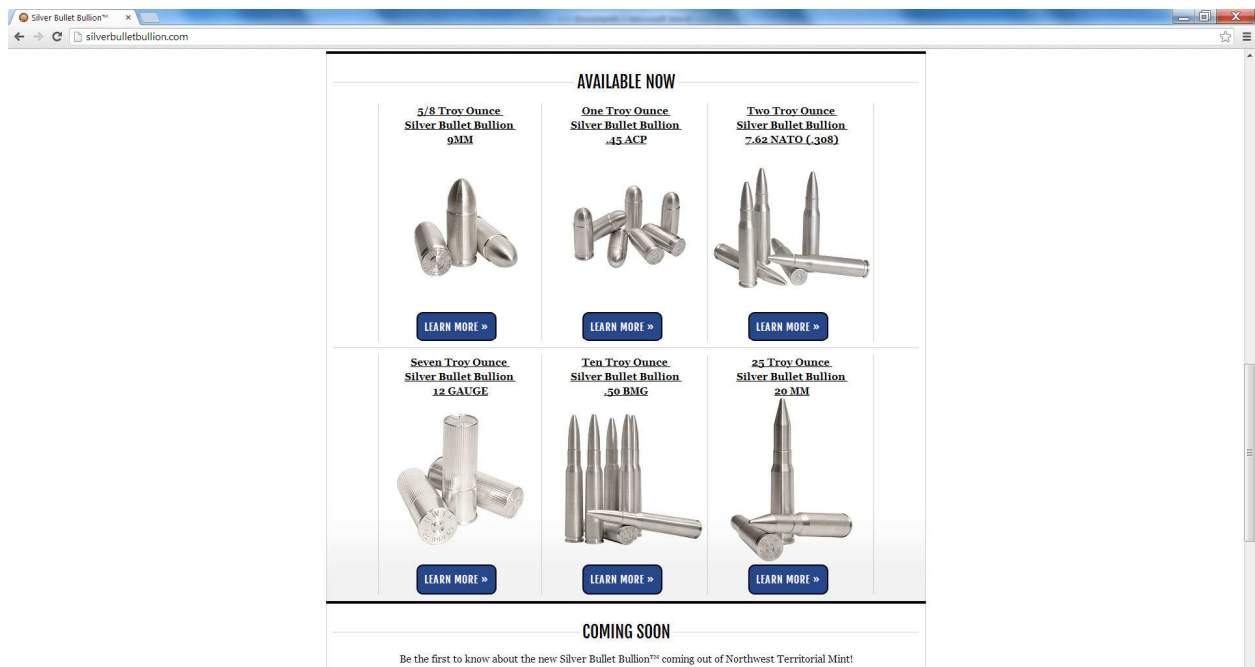
*Silver Bullet Bullion is the most powerful ammunition against deficit spending, fiat currency, sovereign debt, quantitative easing, failed Federal Reserve policy, and rampant inflation ever minted by man!*

**A WORTHWHILE INVESTMENT**  
Silver Bullet Bullion is the most

**.999 FINE PURITY**  
Shaped like the ammunition that will

**UNIQUE YET FAMILIAR**  
Investing in silver bullets will be the

# EXHIBIT B




# EXHIBIT C

One Troy Ounce Silver

silverbulletbullion.com/45-acp.php


NEW PRODUCT

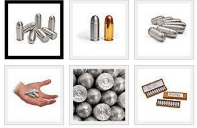
1.275"



Available in small or large quantities.

zoom





ONE TROY OUNCE SILVER BULLET BULLION - .45 ACP

Spot Price

Bid: \$21.38

Ask: \$21.47

Small Quantities Fast Shipping

1-50: \$26.76

Larger Quantities Lower Premiums

50-99: \$24.77

100-499: \$24.58

500-999: \$24.37

1000 OR MORE: \$24.27

Specifications

Caliber: .45 ACP

Overall Length: 1.275 in (32.4 mm)

Base Diameter: .476 in (12.1 mm)

Purity: .999

Silver Content: One troy ounce

Gallery

These solid-silver bullets are nearly identical to a real .45 cartridge. Weighing 1 Troy Oz, each, the .45 ACP version of Silver Bullet Bullion won't actually fire in a weapon, but will target your financial goals with devastating power. Pure investment-grade .999-fine silver, available in boxes of 10 or individually. Celebrates the cartridges designed by John Browning in 1904 for use in his Colt semi-automatic .45 pistol.

PURCHASE 50 TROY OUNCES OR MORE »

PURCHASE SMALLER QUANTITIES »

# EXHIBIT D



***Silver Bullet Bullion is the most powerful ammunition against deficit spending, fiat currency, sovereign debt, quantitative easing, failed Federal Reserve policy, and rampant inflation ever minted by man!***

## **A WORTHWHILE INVESTMENT**

Silver Bullet Bullion is the most powerful ammunition\* against deficit spending, fiat currency, sovereign debt, quantitative easing, failed Federal Reserve policy, and rampant inflation ever minted by man!

## **.999 FINE PURITY**

Shaped like the ammunition that will strike at the heart of failed government economic policies that threaten our economy and our fortunes, each round of *Silver Bullet Bullion* is ultimately **REAL SILVER**.

## **UNIQUE YET FAMILIAR**

Investing in silver bullets will be the most unique way to preserve your wealth — and yet it's priced as bullion, ensuring you are making a reliable investment in silver.

# **EXHIBIT E**

ESTTA Tracking number: **ESTTA550186**

Filing date: **07/24/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Applicant:	<b>Northwest Territorial Mint, LLC</b>
Application Serial Number:	<b>85824772</b>
Application Filing Date:	<b>01/16/2013</b>
Mark:	<b>SILVER BULLET BULLION</b>
Date of Publication	<b>06/25/2013</b>

**First 90 Day Request for Extension of Time to Oppose for Good Cause**

Pursuant to 37 C.F.R. Section 2.102, Provident Precious Metals, LLC, 15850 Dallas Parkway, Dallas, TX 75248, UNITED STATES, a Limited Liability Company, organized under the laws of Texas, respectfully requests that it be granted a 90-day extension of time to file a notice of opposition against the above-identified mark for cause shown.

Potential opposer believes that good cause is established for this request by:

- The potential opposer needs additional time to confer with counsel

The time within which to file a notice of opposition is set to expire on 07/25/2013. Provident Precious Metals, LLC respectfully requests that the time period within which to file an opposition be extended until 10/23/2013.

Respectfully submitted,

/Jason A Worgull/

07/24/2013

**Jason A. Worgull**

**Wegman, Hessler & Vanderburg**

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**Cleveland, OH 44131**

**UNITED STATES**

**jaworgull@wegmanlaw.com, whvipgroup@wegmanlaw.com**

**216-642-3342**